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From: Donaldson, Guy
Sent: Wed 5/17/2017 5:12:36 PM
Subject: Comments from industry regarding leaving CSAPR in place

Steve,

Following up on our last discussion, I thought it might be useful for you guys to see some of the comments we received regarding leaving CSAPR in place

Luminant Comments:

p. ii: “Indeed, EPA’s only lawful path forward to finalize a BART FIP for Texas by the current September 9, 2017 deadline in EPA’s consent decree with Sierra Club is to finalize a CSAPR-for-BART FIP for Texas EGUs, as EPA proposed to do in December 2014. That proposal was not withdrawn, remains a valid and

defensible alternative, is supported by the record and prior EPA technical analyses, and has been

fully vetted with substantial public review and comments.”

p. iv.: “EPA should now finalize its prior proposal that CSAPR serve as a complete BART alternative for

Texas EGUs.”

p. 33: “If EPA believes that it must finalize a BART rule for Texas EGUs by September 2017,

EPA’s only valid legal option is to finalize its 2014 proposed CSAPR-for-BART FIP. In that

proposal, EPA specifically stated that it was proposing “a FIP to replace reliance on CAIR with

reliance on the trading programs of CSAPR as an alternative to BART for SO₂ and NO_x emissions

from EGUs in the regional haze plan for Texas.”²⁰⁴ In support, EPA explained that it “determined

that [1] CSAPR provides for greater reasonable progress towards the national goal than would

BART and [2] Texas is included in CSAPR for NOX and SO₂.”²⁰⁵ The same is true today, and,

indeed, recent emission trends and EPA’s sensitivity analyses for Texas confirm that CSAPR is and

remains better-than-BART for Texas EGUs. Texas remains in the CSAPR annual programs for

NOX and SO₂, and EPA’s determination that CSAPR provides for greater reasonable progress than

the installation of BART remains scientifically sound. EPA has determined that “[CSAPR] achieves

greater reasonable progress towards the national goal of achieving natural visibility conditions than

source-specific BART.”²⁰⁶ That conclusion remains valid today, and EPA has not undertaken any

action to revise or rescind that rulemaking.”

p. 34. “...for purposes of meeting the upcoming deadline of September 9,

2017, EPA is not prohibited by the consent decree from reverting to its 2014 proposal to finalize

CSAPR as a BART alternative for Texas EGUs.”

AEP Comments:

p. 2-4: “EPA should finalize CSAPR as a better-than-BART-alternative for SO₂ and NO_x....On December 16, 2014, EPA published a proposed FIP program to “replace reliance on CAIR with reliance on the trading programs of CSAPR as an alternative to BART for SO₂ and NO_x emissions for EGUs...” In January 2016, EPA did not finalize BART controls for EGUS citing “uncertainty.” ...Complying with the D.C. Circuit requires EPA to propose acceptable budgets consistence with D.C. Circuit Court’s remand,

confirm that those budgets are a BART alternative and allow Texas to remain in the CSAPR trading program. Source specific controls, then, would no longer be necessary since CSAPR as a BART alternative would provide a more cost-effective, less burdensome and flexible program for compliance with Texas' visibility obligations.....”

Excel Energy:

p. 2: “This Proposal is neither a necessary nor prudent approach to federal action on the Texas

Plan. Since CSAPR SO₂ requirements were imposed on Texas sources in 2015, EGU SO₂

emissions have met the CSAPR SO₂ limit for the state. Accordingly, the current SO₂ limit for

Texas, which is still in effect, is at a level that EPA found, in a final rule adopted in 2012, would

be better than BART in the national parks and wilderness areas that are the focus of Regional

Haze requirements. As the CSAPR program has developed, the U.S. Court of Appeals for the

District of Columbia Circuit has determined that the Texas SO₂ emissions budget over-controls

Texas for purposes of interstate transport of emissions to areas downwind that fail to meet the

ambient standard for particles. Whatever SO₂ budget EPA ultimately develops for Texas under

the CSAPR program, EPA's own analysis of a better than BART alternative for Texas (i.e., the

CSAPR SO₂ emissions level) shows that the statewide emissions limit in Texas meets and

exceeds the BART requirements of the Regional Haze program. If EPA determines that it must

adopt a federal plan, that plan should impose a statewide SO₂ emission limit for Texas.”

Coletto Creek:

p. 8: “...EPA may not proceed with the disapproval of Texas’ reliance on CSAPR as ‘better than BART’ until such time that the proposal is legally finalized in compliance with the Court decision that remanded the rule to EPA. Once that rule is legally finalized, then Texas should be given an opportunity to address whether and how that affects the state’s regional haze program before a FIP is considered.”

LCRA: No comments on point. (supports CSAPR ozone program for NO_x BtB)

NRG: No comments on point. (supports CSAPR ozone program for NO_x BtB)